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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 000636

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SUBJECT: FIFTH ANNIVERSARY OF DISAPPEARED THAI HUMAN RIGHTS
LAWYER SOMCHAI: JUSTICE DELAYED, JUSTICE DENIED

REF: BANGKOK 00364 (HOPING FOR JUSTICE)

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Classified By: Political Counselor George Kent, reason 1.4 (b) and (d).

SUMMARY AND COMMENT

1. (SBU) March 12 is the fifth anniversary of the disappearance of noted human rights lawyer Somchai Neelapaichit, widely presumed to have been kidnapped and murdered by the Thai police in 2004. The Working Group for Justice and Peace (WGJP), headed by Angkhana Neelaphaichit, Somchai's widow, commemorated the anniversary with two events March 11 coordinated with the International Commission of Jurists (ICJ). Angkhana published her diary with thoughts about Somchai's disappearance; the ICJ issued a report on the criminal proceedings and investigation of the Somchai disappearance based on extensive trial observations by ICJ staff. Deputy Prime Minister Suthep Thaugsuban pledged the new government's commitment to human rights and justice at the morning seminar, expressing hope that a new case against the perpetrators might be filed by the Department of Special Investigations (DSI) by the end of April. The ICJ report and panel members noted the Somchai case remained emblematic in Thailand of a culture of impunity by state officials and the difficulty of achieving justice in cases of serious human rights violations - in particular, cases that point to state-sponsored or endorsed disappearances.

2. (C) Comment: PM Abhisit and DPM Suthep's pledges to pursue justice in the Somchai case and empathy with Angkhana's personal anguish mark a welcome break from years of governmental dissembling, obstruction, and indifference in the Somchai case (then-PM Thaksin famously and callously claimed at the time of Somchai's disappearance that Somchai had fled his wife). Recent attention paid by the Abhisit government to cases long-associated with a culture of impunity surrounding state officials is encouraging. However, such sentiments remain mere words absent a conviction. We may see an ongoing battle of political strength and willpower between the current government's

professed resolve to bring conclusion to the Somchai case and the deep-seated culture of secrecy and self-protection thus far exhibited by the Royal Thai Police (RTP) and DSI. If the government is able to deliver delayed justice in the Somchai case, it could also add a powerful positive impulse to efforts to achieve reconciliation in the deep south, since Somchai was head of the Muslim Lawyer's Association and defending a group of five alleged insurgents reportedly tortured by police at the time of his disappearance. We continue to urge Thai officials to solve the Somchai case.
End Summary and Comment.

A SOMBER ANNIVERSARY: WHERE IS SOMCHAI?

13. (SBU) The fifth anniversary of a disappearance carries special significance in Thai law, since at that point survivors can petition the courts to have their missing relative declared dead. In Somchai's case, it also opens the possibility of new charges being filed in the case for homicide, even in the absence of physical proof of corpse. On March 11, the WGJP and ICJ co-sponsored a panel discussion at the Siam Society to commemorate Somchai's March 12, 2004 disappearance, with DPM Suthep delivering the keynote address. ICJ released a detailed report of its findings based on trial observation and legal analysis of the case; widow Angkhana released a book-length diary of her experience coping with Somchai's disappearance.

14. (SBU) DPM Suthep Thaugsuban provided opening remarks for the seminar on behalf of PM Abhisit, conveying condolences to Somchai's family. Reminding the audience that Abhisit attached great importance to the Somchai case, Suthep vowed

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that the current Democrat-led government intended to prove that Thailand was a democracy in which the government "could run the country by the rule of law" and justice could prevail. Suthep told us separately afterwards that he expected the DSI investigation to conclude by the end of April, after which the case would be forwarded to the Office of Attorney General (OAG) for further review. Angkhana told us that she remained cautiously optimistic about whether the new push will finally achieve results.

15. (C) DSI Piyawat Kingkate, Director of the Bureau of Special Crime and the lead DSI case officer for the Somchai case, told us afterwards that DSI would try to put together a case based on circumstantial evidence even without physical proof of Somchai's remains/death; phone records would be one key element, he said. Piyawat confirmed that DSI knew that Police Major Ngern Tongasuk, the one police officer convicted in connection to Somchai's case, was alive; Ngern allegedly vanished after a 2008 landslide, leading to police pressure on Angkhana to drop her case against him.

16. (SBU) An evening event at the Foreign Correspondents' Club of Thailand (FCCT) featured presentations from Angkhana, ICJ Commissioner and Australian Judge Elizabeth Evatt, and Democrat Party deputy leader/MP Kraisaak Choonhavan. Angkhana gave good marks to the new administration's efforts, characterizing Abhisit as "sincere" and noting that he was the first prime minister to invite human rights activists to meet with him regularly.

FLAWED INVESTIGATION FROM THE START

17. (SBU) In contrast to the kind words for the current government, Angkhana criticized the police and DSI investigators. Stating that "everyone knows who was involved in the disappearance," she lamented the lack of a proper investigation and noted authorities had not compelled the five police officer suspects to submit to a DNA test, which could have linked them to hairs found in Somchai's car (eye-witness accounts indicated a police officer had driven

Somchai's car away after he was abducted and forced into a separate vehicle). Angkhana noted that she and Somchai's children had been forced to provide hair and blood samples.

18. (SBU) Chulalongkorn University law professor Vitit Muntarbhorn told the morning seminar that the quest for transparency on the case continued because no one believed that DSI had worked in full-capacity on the case. ICJ Legal Specialist Paul Green told us on March 11 that DSI had never used its legal powers of search, seizure or arrest to obtain evidence for the case, such as to obtain much-needed DNA samples from the five police suspects or to secure official copies of pertinent telephone records from Telephone Organization of Thailand (TOT).

SOMCHAI IN CONTEXT OF THE SOUTH: NO PEACE WITHOUT JUSTICE

19. (SBU) Looking at the wider context of Somchai's disappearance, particularly the ongoing violence in the deep south, morning panelist Mark Tamthai suggested that it was "too late to solve the violence in the south with justice," and suggested the RTG now must concentrate on "healing mistrust" after years of violence committed by state officials without any successful prosecutions on behalf of victims. For his part, MP Kraisaak blasted Thaksin's role in the case (note: phone records indicate a call was made from the PM's office at Government House to one of the police suspects around the time of the disappearance), underscored the link to the southern unrest due to Somchai's activism in defending southern Muslims accused of association with the insurgency, and called on his own government to initiate dialogue with the insurgents.

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10. (SBU) Judge Evatt characterized Somchai's disappearance as emblematic of the ongoing violence in southern Thailand, and the failure of Thai authorities to prosecute state officials for serious human rights violations. Evatt added that she was shocked when Police Major Ngern Thongsuk, convicted of forced coercion and sentenced to three years imprisonment in the Somchai case in 2006, was allowed to leave the courtroom without being detained or monitored by the court, or even subject to internal police disciplinary action. The four other police suspects were all acquitted in a judicial proceeding Evatt characterized as shoddy; they continue to serve in the RTP.
JOHN